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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR          | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------------|---------------------|------------------|
| 10/814,806      | 04/01/2004  | Javier Barandiaran Salaberria | BARANDIARAN2        | 5308             |

7590 02/23/2006  
BROWDY AND NEIMARK, P.L.L.C.  
624 Ninth Street, N.W.  
Washington, DC 20001

| EXAMINER |
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ROST, ANDREW J

| ART UNIT | PAPER NUMBER |
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3751

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/814,806 | <b>Applicant(s)</b><br>SALABERRIA, JAVIER<br>BARANDIARAN |  |
|                              | <b>Examiner</b><br>Andrew J. Rost    | <b>Art Unit</b><br>3751                                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/26/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because poor line quality, Figures 5 and 6 need to additional figures to display the perspectives of the different embodiments of the semi-circular surface, and the semi-circular surface in Figure 5 has solid hidden lines when the hidden lines should be dashed. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

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As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
  - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
  - (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
  - (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
  - (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
  - (f) BACKGROUND OF THE INVENTION.
    - (1) Field of the Invention.
    - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
  - (g) BRIEF SUMMARY OF THE INVENTION.
  - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
  - (i) DETAILED DESCRIPTION OF THE INVENTION.
  - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
  - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
  - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).
3. The disclosure contains the following informalities:

The reference numeral (20) is used to refer to both a "lateral drive action" (page 5, line 8) and a "lateral drive factor" (page 5, line 21).

Appropriate correction is required.

***Claim Objections***

4. Claim 3 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim 3 has not been further treated on the merits.

5. Claims 4-5 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 4-5 have not been further treated on the merits.

6. Claims 1-5 are objected to because of the following informalities:

Claim 1, line 10 refers Figure 2.a and a figure should not be referred to in the claims.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the term “characterized in that” is indefinite because it is unclear to which object is being limited.

Regarding claim 1, the statement “since it is not necessary for it to be exclusively in the direction of the shaft of the rod (21) or lateral to it (20), but is extendable to any of

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the points (19, 20, 21) or the area that resembles a semi-spherical surface (18)" is indefinite because it is unclear as to the structure that is being claimed.

Regarding claim 2, the statement "the design of the valve device" is indefinite because it fails to state the limitations of the claim.

Regarding claim 2, the phrase "without limits" is indefinite because the extent of the operation is unclear since the control rod interacts with a sidewall of the valve device which limits the motion of the control rod.

Claim 2 recites the limitation "the valve device" in line 3 of claim 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (5,115,723).

Regarding claim 1, Wang discloses a height adjusting device having two concentric cylinders (21, 24) with an intermediate chamber (25), a control rod (28) with a drive action area that resembles a semi-spherical surface (A') with the drive direction to be applied to the drive action area is multidirectional (the control rod is held in the shaft opening (221) by a seal (unlabeled) which if given enough force could be

deformed by pressing the control to the side allowing the control rod to open the valve with a force applied at an angle that is different than axial).

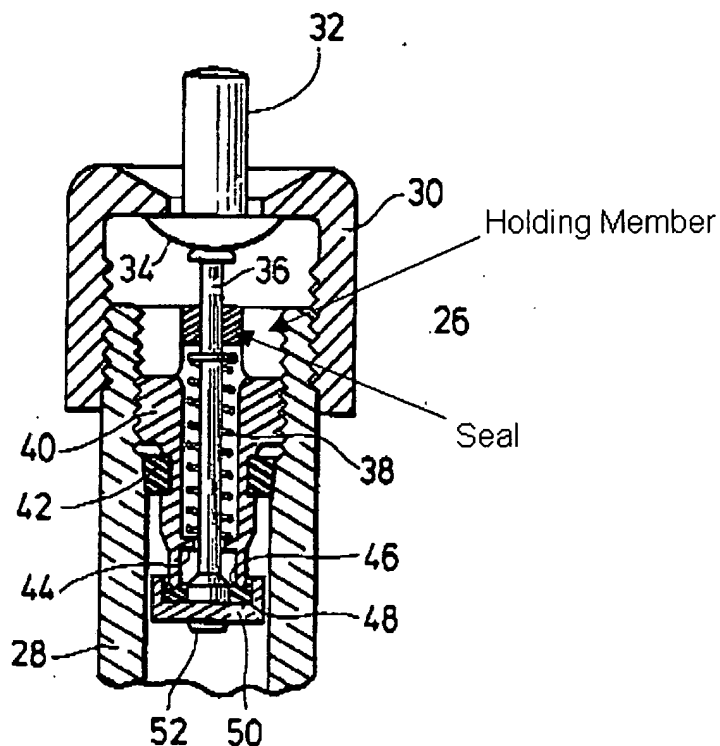
In regards to claim 2, Wang discloses a multidirectional drive that uses a valve device (upper portion of stopper 22, ring 3, and a lower portion of stopper 22) that interacts with sealing gaskets (valve piece 29, and a seal (unlabeled) at the upper portion of the control rod).

11. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (4,133,345).

Regarding claim 1, Mitchell discloses a valve that has two concentric bodies (28, 30) with an intermediate chamber and a control rod (32) with a drive action area (top of actuating spindle 32) that resembles a semi-spherical surface with the force of actuation not limited to directions laterally and axially to the control rod.

In regards to claim 2, Mitchell discloses a valve device having three pieces (internal body portion 40, ring seal 42, and holding member (unlabeled, shown in attached Figure) that interact with sealing gaskets (closure member 48, and seal around the stem 36 (seal is unlabeled but shown in attached Figure)).

**Appendix**



Appendix for Mitchell (4,133,345) unlabeled parts

**Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dolan (2,785,881) discloses a faucet attachment that has a control rod that can move in a multidirectional manner to allow a fluid to flow through a valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-



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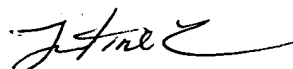
2711. The examiner can normally be reached on 7:30-5 M-Th and 7:30-5 every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew J Rost  
Examiner  
Art Unit 3751



JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

2/16/06